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June 30, 2005

Honorable Judge Nancy Gertner  
U.S. District Court  
U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

Re: NMT Medical, Inc. v. AGA Medical Corporation  
Civil Action No. 04-CV-12565-NG  
Our File No. 20050097.LAW

Dear Judge Gertner:

We are writing you regarding the above-captioned action and AGA Medical Corporation v. Nitinol Medical Technologies Inc. ("NMT") and Lloyd A. Marks (CA No. 04-CV-4486-JMR-FLN), the related Minnesota case that was recently transferred to the U.S. District Court for the District of Massachusetts. The parties are jointly requesting that the court order consolidation of the two cases and then schedule a scheduling conference in the consolidated case.

The Minnesota case was filed October 13, 2004 and the Massachusetts case was filed December 7, 2004. Neither Dr. Marks nor NMT has filed an Answer in the transferred Minnesota action. NMT and Marks intend to file and serve their Answer by June 27, 2005. If either NMT or Marks files a counterclaim, AGA will serve and file its reply twenty days after service of the Answer, as contemplated by Rule 12(a) of the Federal Rules of Civil Procedure.


Both of the cases relate to U.S. Patent No. 5,108,420. You will recall that this patent was also the subject of Civil Action No. 98-CV-12506-NG brought by NMT Medical and Lloyd Marks, the named inventor on the '420 patent. At NMT's request, Your Honor entered an order staying that case so that the patent owner could have the patent reexamined. You ultimately dismissed that case without prejudice.

The reexamination proceeding has been completed. The original '420 patent had fourteen claims. The Ex Parte Reexamination Certificate issued under 35 U.S.C. § 307 by the Patent Office contains the original fourteen claims and fifty-three new claims. Amendments were also made to the patent specification and drawings.

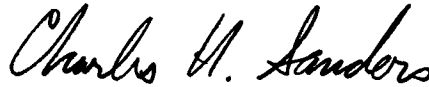
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The parties believe that judicial economy would best be served if these two cases are consolidated. Such action is respectfully requested of the Court. The parties also request that the court set a scheduling conference in the consolidated case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James T. Nikolai".

James T. Nikolai  
NIKOLAI & MERSEREAU, P.A.

A handwritten signature in black ink, appearing to read "Charles H. Sanders".

Charles H. Sanders  
FISH & RICHARDSON P.C.

JTN:br